

AMENDED IN ASSEMBLY JUNE 1, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 337

Introduced by Assembly Member Torres

February 18, 2009

An act to amend Section 781 of the Welfare and Institutions Code, relating to juvenile court records.

LEGISLATIVE COUNSEL'S DIGEST

AB 337, as amended, Torres. Juvenile court records: sealing and destruction.

Existing law authorizes a person who is the subject of a juvenile court record, or the county probation officer, to petition the court for the sealing of the records relating to the person's case, including records in the custody of the juvenile court and the probation officer and any other agencies, including law enforcement agencies and public officials as the petitioner alleges to have custody of the records. The petition may be filed 5 years or more after the jurisdiction of the juvenile court has terminated or, if no petition was filed, 5 years or more after the person was cited to appear before a probation officer or was taken before a probation officer or law enforcement officer, or, in any case, at any time after the person reaches 18 years of age. This provision does not apply if the person was found by the juvenile court to have committed any one of specified serious or violent offenses and the person was 14 years of age or older when he or she committed the offense. Existing law also does not permit the sealing of a record for an offense if the person has been convicted of that offense in criminal court, as specified.

This bill would require the court to provide to every person who has reached 18 years of age and who is eligible to have his or her records

~~sealed with a written notification with a clear explanation of that person's rights to have his or her records sealed and destroyed, on and after January 1, 2011, each court and probation department to ensure that information regarding the eligibility for and the procedures to request the sealing and destruction of records is provided to each person for whom a petition has been filed, on or after January 1, 2011, to adjudge the person a ward of the juvenile court and to specified other minors who are taken into temporary custody and brought before a probation officer, as specified. The bill would require the Judicial Council on or before January 1, 2011, to develop related informational materials and a specified form. The bill would specify when the materials and the form are to be provided.~~

By imposing additional duties on local probation departments, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 781 of the Welfare and Institutions Code
2 is amended to read:
3 781. (a) In any case in which a petition has been filed with a
4 juvenile court to commence proceedings to adjudge a person a
5 ward of the court, in any case in which a person is cited to appear
6 before a probation officer or is taken before a probation officer
7 pursuant to Section 626, or in any case in which a minor is taken
8 before any officer of a law enforcement agency, the person or the
9 county probation officer may, five years or more after the
10 jurisdiction of the juvenile court has terminated as to the person,
11 or, in a case in which no petition is filed, five years or more after
12 the person was cited to appear before a probation officer or was
13 taken before a probation officer pursuant to Section 626 or was

1 taken before any officer of a law enforcement agency, or, in any
2 case, at any time after the person has reached the age of 18 years,
3 petition the court for sealing of the records, including records of
4 arrest, relating to the person's case, in the custody of the juvenile
5 court and probation officer and any other agencies, including law
6 enforcement agencies, and public officials as the petitioner alleges,
7 in his or her petition, to have custody of the records. ~~The court~~
8 ~~shall provide to every person who has reached 18 years of age,~~
9 ~~and who is eligible to have his or her records sealed pursuant to~~
10 ~~this section, a written notification with a clear explanation of that~~
11 ~~person's rights to have his or her records sealed and destroyed.~~
12 The court shall notify the district attorney of the county and the
13 county probation officer, if he or she is not the petitioner, and the
14 district attorney or probation officer or any of their deputies or any
15 other person having relevant evidence may testify at the hearing
16 on the petition. If, after hearing, the court finds that since the
17 termination of jurisdiction or action pursuant to Section 626, as
18 the case may be, he or she has not been convicted of a felony or
19 of any misdemeanor involving moral turpitude and that
20 rehabilitation has been attained to the satisfaction of the court, it
21 shall order all records, papers, and exhibits in the person's case in
22 the custody of the juvenile court sealed, including the juvenile
23 court record, minute book entries, and entries on dockets, and any
24 other records relating to the case in the custody of the other
25 agencies and officials as are named in the order. In any case in
26 which a ward of the juvenile court is subject to the registration
27 requirements set forth in Section 290 of the Penal Code, a court,
28 in ordering the sealing of the juvenile records of the person, also
29 shall provide in the order that the person is relieved from the
30 registration requirement and for the destruction of all registration
31 information in the custody of the Department of Justice and other
32 agencies and officials. Notwithstanding any other provision of
33 law, the court shall not order the person's records sealed in any
34 case in which the person has been found by the juvenile court to
35 have committed an offense listed in subdivision (b) of Section 707
36 when he or she had attained 14 years of age or older. Once the
37 court has ordered the person's records sealed, the proceedings in
38 the case shall be deemed never to have occurred, and the person
39 may properly reply accordingly to any inquiry about the events,
40 the records of which are ordered sealed. The court shall send a

1 copy of the order to each agency and official named therein,
2 directing the agency to seal its records and stating the date
3 thereafter to destroy the sealed records. Each such agency and
4 official shall seal the records in its custody as directed by the order,
5 shall advise the court of its compliance, and thereupon shall seal
6 the copy of the court's order for sealing of records that it, he, or
7 she received. The person who is the subject of records sealed
8 pursuant to this section may petition the superior court to permit
9 inspection of the records by persons named in the petition, and the
10 superior court may so order. Otherwise, except as provided in
11 subdivision (b), the records shall not be open to inspection.

12 (b) In any action or proceeding based upon defamation, a court,
13 upon a showing of good cause, may order any records sealed under
14 this section to be opened and admitted into evidence. The records
15 shall be confidential and shall be available for inspection only by
16 the court, jury, parties, counsel for the parties, and any other person
17 who is authorized by the court to inspect them. Upon the judgment
18 in the action or proceeding becoming final, the court shall order
19 the records sealed.

20 (c) (1) Subdivision (a) does not apply to Department of Motor
21 Vehicle records of any convictions for offenses under the Vehicle
22 Code or any local ordinance relating to the operation, stopping
23 and standing, or parking of a vehicle where the record of any such
24 conviction would be a public record under Section 1808 of the
25 Vehicle Code. However, if a court orders a case record containing
26 any such conviction to be sealed under this section, and if the
27 Department of Motor Vehicles maintains a public record of such
28 a conviction, the court shall notify the Department of Motor
29 Vehicles of the sealing and the department shall advise the court
30 of its receipt of the notice.

31 Notwithstanding any other provision of law, subsequent to the
32 notification, the Department of Motor Vehicles shall allow access
33 to its record of convictions only to the subject of the record and
34 to insurers which have been granted requestor code numbers by
35 the department. Any insurer to which such a record of conviction
36 is disclosed, when such a conviction record has otherwise been
37 sealed under this section, shall be given notice of the sealing when
38 the record is disclosed to the insurer. The insurer may use the
39 information contained in the record for purposes of determining
40 eligibility for insurance and insurance rates for the subject of the

1 record, and the information shall not be used for any other purpose
2 nor shall it be disclosed by an insurer to any person or party not
3 having access to the record.

4 (2) This subdivision shall not be construed as preventing the
5 sealing of any record which is maintained by any agency or party
6 other than the Department of Motor Vehicles.

7 (3) This subdivision shall not be construed as affecting the
8 procedures or authority of the Department of Motor Vehicles for
9 purging department records.

10 (d) Unless for good cause the court determines that the juvenile
11 court record shall be retained, the court shall order the destruction
12 of a person's juvenile court records that are sealed pursuant to this
13 section as follows: five years after the record was ordered sealed,
14 if the person who is the subject of the record was alleged or
15 adjudged to be a person described by Section 601; or when the
16 person who is the subject of the record reaches the age of 38 if the
17 person was alleged or adjudged to be a person described by Section
18 602, except that if the subject of the record was found to be a
19 person described in Section 602 because of the commission of an
20 offense listed in subdivision (b), of Section 707, when he or she
21 was 14 years of age or older, the record shall not be destroyed.
22 Any other agency in possession of sealed records may destroy its
23 records five years after the record was ordered sealed.

24 (e) This section shall not permit the sealing of a person's
25 juvenile court records for an offense where the person is convicted
26 of that offense in a criminal court pursuant to the provisions of
27 Section 707.1. This subdivision is declaratory of existing law.

28 (f) (1) *On and after January 1, 2011, each court and probation*
29 *department shall ensure that information regarding the eligibility*
30 *for and the procedures to request the sealing and destruction of*
31 *records pursuant to this section shall be provided to each person*
32 *who is either of the following:*

33 (A) *A person for whom a petition has been filed, on or after*
34 *January 1, 2011, to adjudge the person a ward of the juvenile*
35 *court.*

36 (B) *A person who is brought before a probation officer pursuant*
37 *to Section 626.*

38 (2) *The Judicial Council shall, on or before January 1, 2011,*
39 *develop informational materials for purposes of paragraph (1),*
40 *and shall develop a form to petition the court for the sealing and*

1 *destruction of records pursuant to this section. The informational*
2 *materials and the form shall be provided to each person described*
3 *in paragraph (1) when jurisdiction is terminated or when the case*
4 *is dismissed.*

5 *SEC. 2. If the Commission on State Mandates determines that*
6 *this act contains costs mandated by the state, reimbursement to*
7 *local agencies and school districts for those costs shall be made*
8 *pursuant to Part 7 (commencing with Section 17500) of Division*
9 *4 of Title 2 of the Government Code.*